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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

20143

FILE: B-199695

DATE: November 30, 1981

MATTER OF: George H. Beail - Temporary quarters subsistence expenses

- DIGEST:**
1. Transferred employee, who was authorized temporary quarters subsistence expenses, arranged for wife and two children to stay with his mother-in-law. He claims \$8.15 per day for their meals and \$1.67 per day for their laundry expense. Agency determined that expenditures were unreasonable since statistical data showed that reasonable expenditure would be \$4.75 per day for meals. Agency determination is reversed since agency failed to consider that employee's mother-in-law prepared the meals and reasonableness of amounts paid.
 2. Transferred employee, who was authorized temporary quarters subsistence expenses, agreed to pay mother-in-law for lodging for his wife and two children. Agency determination that \$6 per day for lodging was unreasonable is reversed as arbitrary. We find rate reasonable since \$6 was considerably less than commercial rate, mother-in-law experienced inconvenience in providing cleaning services for house and yard and linens, and there was significant increased use of host's utilities.

Mr. George H. Beail, an employee of the Department of the Army, has appealed the action of our Claims Division (now Claims Group) which by settlement certificate Z-1817468 dated June 30, 1976, disallowed his claim for additional temporary quarters subsistence expenses (TQSE) representing the amounts he paid his mother-in-law attributable to room, board, and laundry expenses that she provided to his wife and two children. For the following reasons, we hold that Mr. Beail is entitled to additional TQSE reimbursement.

Incident to a transfer from Washington, D.C., to Anchorage, Alaska, Mr. Beail's family occupied temporary quarters in his mother-in-law's home in Walla Walla, Washington, from May 6, 1974 through July 4, 1974. In

consideration of his two children and wife staying at his mother-in-law's house and receiving their meals and laundry services there, Mr. Beail agreed to pay his mother-in-law the reasonable value of the room, board and laundry services provided. Mr. Beail explains that, because one of his children was an infant born prematurely, his condition required increased use of air conditioning and inherent increased utility expense. Mr. Beail points out that these circumstances also necessitated extra work by his mother-in-law in preparing meals for his family, extra cleaning services for the house, and laundry services for his wife, daughter, and infant son.

For his family's temporary quarters subsistence expense during the period from May 6, through July 4, 1974, Mr. Beail initially submitted a claim dated October 29, 1974, for \$1,953.45 -- averaging \$15.06 per day for meals and \$15.83 per day for lodging. That claim was returned by the disbursing officer for clarification and additional information prior to processing.

Five months later Mr. Beail submitted a revised claim, dated April 8, 1975, for his dependents' temporary quarters and subsistence expense in the amount of \$1,077.15--averaging \$8.15 per day for home prepared meals, \$18.22 per day for 10 days of commercial lunches and dinners, \$6 per day for lodging, and \$1.67 per day for laundry expenses. However, the disbursing officer concluded that the amounts claimed did not appear reasonable. He based his conclusion on information obtained from the Portland Federal Assistance Operator as to the cost of food for different age groups in the Pacific Northwest region, and his calculation that the maximum allowable amount for three dependents would have been \$1,374.90 if the dependents had used commercial quarters. The disbursing officer also referenced our decision published in 52 Comp. Gen. 78 (1972). Additionally, without stating a basis, other than his reference to the maximum commercial allowance, the disbursing officer decided that the amounts claimed for lodging and laundry expenses were excessive. By letter dated April 29, 1975, the disbursing officer notified the claimant of his proposed settlement in the amount of \$663.18 itemized as follows: (1) \$240 for lodging with relative for 60 days (reduced from \$360); (2) \$253.18 for home meals based on

cost of groceries only (reduced from \$434.95); (3) \$130 for 20 commercial meals for each of three dependents (reduced from \$182.20); and (4) \$40 for laundry services, (reduced from \$100).

Our Claims Division disallowed the claim as it did not find the disbursing officer's decision to be clearly erroneous, arbitrary, or capricious.

In his appeal letter Mr. Beail has provided the following explanation for the reimbursement he provided his mother-in-law:

"[My wife] gave birth two months premature to our son while staying overnight in Seattle, Washington. The baby was in critical condition and was kept in intensive care at Children's Hospital for nearly four weeks. When he was released to be taken home, he was not allowed to be taken out in public places for another month and required constant care. As a result, the family had to eat most meals at home and my mother-in-law prepared all meals and cleaned up after the meals. While providing this service, she otherwise would have eaten most meals at a restaurant or would have prepared a simple meal for two. She individually performed all of the laundry services for my dependents, which included the necessary ironing and laundering all of the baby diapers. She provided all additional utilities and kept the house and yard clean and neat for my dependents. The air conditioner was used a great deal more than usual in order to maintain constant, comfortable temperature over the whole house including the upstairs bedroom which otherwise would not have been kept cool. The amounts I paid my wife's mother were determined by my calculations of food cost and preparation services for home cooked meals, the actual costs of commercial meals, my computation of equipment use, soap, utilities, and personal services for laundry expenses, and my assessment of reasonable lodging costs based on additional wear and tear, increased

utility costs, use of linens, and personal services for maintaining clean facilities. The payments were made by check and I received itemized receipts."

* * * * *

"The claimed costs totaling \$1,077.15 were for reduced amounts required for the resubmission and were not directly related to receipts. The receipts totaling \$1,050.00 were for only lodging and laundry, and only \$460.00 of the \$1,077.15 claim was for lodging and laundry. The other \$617.15 was for meals. * * *"

Mr. Beail also takes exception to the disbursing officer's determination that subsistence expense reimbursement is limited to the applicable rates for Walla Walla, Washington, where his family was actually residing. Mr. Beail believes the allowable rate for his dependents is to be based on the rate allowable for the employee, which Mr. Beail believes to be the overseas rate applicable to Anchorage, Alaska in his situation. For reasons which are discussed below, the rates to which we have found Mr. Beail to be entitled do not exceed the applicable rates for Walla Walla. Therefore, it is not necessary for us to reach the question of whether the higher rate applicable for Anchorage could have been applied to Mr. Beail's dependents.

Pursuant to 5 U.S.C. § 5724a (1976), section 2-5.4 of the Federal Travel Regulations (FTR), FPMR 101-7, May 1973, authorizes, under proper circumstances, the payment of subsistence expenses of an employee and his immediate family while occupying temporary quarters when the employee is transferred to a new official station. This regulation requires reimbursement only for actual subsistence expenses incurred, provided they are reasonable as to amount.

While reimbursement for charges for lodging and related services supplied by relatives may be allowable, we have consistently held that what is reasonable depends upon the circumstances of each case. Richard E. Nunn,

58 Comp. Gen. 177 (1978). In determining what is reasonable, factors such as an increase in the use of utilities, hiring of extra help, and extra costs incurred by the relative are to be taken into consideration. The onus is on the claimant to provide sufficient information to enable the employing agency to determine the reasonableness of his claim, and it is not enough to show that the amount is less than the commercial rate or the maximum rate allowable under the regulations. James W. Clark, B-193331, April 5, 1979, and cases cited therein. We have stated that it is the responsibility of the employing agency, in the first instance, to insure that expenses are reasonable. Jesse A. Burks, 55 Comp. Gen. 1107 (1976). However, even though the determination of what is reasonable is primarily the responsibility of the employing agency, the agency may not make such a determination arbitrarily and without adequate information to justify the amount arrived at. Gordon S. Lind, B-182135, November 7, 1974; Michael J. Scullin, B-187822, June 1, 1977.

In Nunn, supra, we considered the reasonableness of an employee's claim for reimbursement for amounts paid to his mother-in-law for room and board for his three daughters where TQSE was authorized. The agency had held that the employee's expenditure of \$12 per day on food for his three daughters was unreasonable based on statistical data supplied by the Bureau of Labor. We disagreed because we believed that the agency erroneously failed to consider that the employee arrived at the \$12 figure by preparing a sample shopping list using actual market prices, that his mother-in-law prepared the meals for his three daughters, and that the employee negotiated the rate in good faith with his mother-in-law. Therefore, we reversed the agency determination and held that \$12 per day for food was a reasonable expenditure. We believe that the reasoning applied in Nunn is equally applicable to the present case and we find that \$8.15 per day for food for an adult and two children is a reasonable expenditure. Therefore, the agency determination that this amount must be reduced to \$4.75 per day is reversed.

After considering Mr. Beuil's claim of \$6 per day for the lodging of his three dependents along with including the increase in utilities, the agency without explanation reduced the amount to \$4 per day.

The record in the instant case lacks a proper basis to support Army's determination that the amount claimed for lodging was unreasonable under the circumstances. Army has given insufficient reasons why it considers \$6 per day unreasonable and why it considers \$4 per day for lodging to be reasonable. We believe that here again the facts of the Nunn case are instructive in considering the reasonableness of lodging expenses. In Nunn, \$ 10.50 per day was claimed as lodging expense for the employee's three daughters. The agency allowed \$4.81 per day for lodgings and utilities without sufficient reason. In reversing and reinstating reimbursement at \$10.50 per day (including utilities) we considered the various factors upon which the lodging cost was based. We particularly noted that had the employee's three daughters stayed in motel rooms, it would have probably cost an amount in excess of \$33 per day. We also took note of the utility cost attributable to the employee's daughters in justifying our conclusion that the \$10.50 per day was reasonable.

We find the rationale applied in Nunn justifying \$10.50 per day for lodging for three dependents no less valid in justifying Mr. Beail's request of \$6.00 per day (including utilities) for the lodging of his three dependents. The record in the instant case lacks a proper basis to support Army's determination that \$4 per day for lodging was reasonable under the circumstances and \$6 was unreasonable. We believe that the inconvenience experienced by Mr. Beail's mother-in-law, the significant increase in labor required, including the supply of linens furnished, and the increased cost of utilities justify a conclusion that the \$6 per day over the 60 day period was reasonable.

Additionally, we do not believe that Mr. Beail's claim of \$18.22 per day for 10 days of commercial lunches and dinners-- six meals per day-- was unreasonable and find the agency's reduction of this amount to \$13 per day or \$2.17 per meal to be without adequate explanation and arbitrary. We also find Mr. Beail's laundry expense of \$100 for 60 days for three dependents including an infant child to be reasonable, and therefore reimbursable.

Concerning Mr. Beail's initial claim, dated October 29, 1974, in the amount of \$1,953.45 for the subsistence expenses of his three dependents, we note that it is in excess of commercial rates at the time and location of the

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temporary residence. Furthermore, the receipts which he provided in support of that claim total \$1,050, which is considerably less than the amount claimed, and no other information sufficient to support this claim is provided. Thus, we conclude that Mr. Beail is not entitled to reimbursement in the amount of the initial claim for \$1,953.75. 52 Comp. Gen. 78 (1972); Allen W. Rotz, B-190508, May 8, 1978. Furthermore, we do not believe it would be appropriate, five years after the fact, to reinstate a voucher which was contemporaneously withdrawn in lieu of the re-submitted voucher, which was certified by the claimant to be true and accurate.

Accordingly, Mr. Beail's reclaim voucher should be paid, less those amounts previously paid.

for 
Comptroller General
of the United States